

The Family Court of the State of Delaware

In and For ☐ New Castle ☐ Kent ☐ Sussex County

PETITION FOR PERMANENT GUARDIANSHIP OF A MINOR

File Number(s): _____

Petition Number: _____

PETITIONER

Name	Date of Birth	
Street Address		
Apt. No. Or Box No.		
City	State	Zip Code
Home Phone No.		
Work Phone No.		
Relation to Child(ren)		
Attorney Name (if any)		
Street Address		
Suite or Box No.		
City	State	Zip Code

2nd PETITIONER (if any)

Name	Date of Birth	
Street Address		
Apt. No. Or Box No.		
City	State	Zip Code
Home Phone No.		
Work Phone No.		
Relation to Child(ren)		
Attorney Name (if any)		
Street Address		
Suite or Box No.		
City	State	Zip Code

RESPONDENT

Name	Date of Birth	
Street Address		
Apt. No. Or Box No.		
City	State	Zip Code
Home Phone No.		
Work Phone No.		
Relation to Child(ren)		
Attorney Name (if any)		
Street Address		
Suite or Box No.		
City	State	Zip Code

2nd RESPONDENT (if any)

Name	Date of Birth	
Street Address		
Apt. No. Or Box No.		
City	State	Zip Code
Home Phone No.		
Work Phone No.		
Relation to Child(ren)		
Attorney Name (if any)		
Street Address		
Suite or Box No.		
City	State	Zip Code

Guardian ad Litem, if any: Name _____

Address: Street Address _____
City _____ State _____ Zip Code _____

Attorney for Guardian ad Litem, if any: Name _____

Address of Attorney for Guardian ad Litem: Street Address _____
City _____ State _____ Zip Code _____

IN THE INTEREST OF THE FOLLOWING CHILD(REN): (**Complete the table below for each child for which petitioner wants permanent guardianship.** Attach additional sheets if necessary.)

Child's Name	Child's Date of Birth	Child's Place of Birth (City, State)	Child's Gender (Check One)
			<input type="checkbox"/> Male <input type="checkbox"/> Female
			<input type="checkbox"/> Male <input type="checkbox"/> Female
			<input type="checkbox"/> Male <input type="checkbox"/> Female
			<input type="checkbox"/> Male <input type="checkbox"/> Female

1. Complete the table below regarding the child(ren)'s parents:

	Name	Address	Date of Birth	Social Security No.
MOTHER				
FATHER				

2. If you do not know the name/address of the child(ren)'s mother and/or father, write in the space provided below what you have done to try to locate him/her/them.

3. Name(s) of person(s) or organization **holding parental rights** to the child(ren): _____

Address of person(s) or organization: _____

4. Name(s) of the person(s) or organization **having the guardianship, care, control or custody** of the child(ren): _____

Address of person(s) or organization: _____

5. Name(s) of the person(s) **to whom permanent guardianship shall be vested** if this Petition is granted: _____

Address of person(s) or organization if address is different from address of Petitioner(s):

6. Proposed permanent guardian(s)' relationship to child(ren) if proposed permanent guardian is **NOT** the Petitioner:

7. Please check all that apply:

☐ The following child(ren) is/are not yet 14 years of age or older:
_____ ; OR

☐ The child(ren) is/are 14 years of age or older and consents to (agree with) this Petition (**Attach Affidavit of Consent executed by each child(ren) who consents**) Name(s) of child(ren) 14 years of age or older who consent(s):

☐ The child(ren) is/are 14 years of age or older does/do **NOT** consent to (agree with) this Petition. Name(s) of child(ren) 14 years of age or older who do **NOT** consent:

8. I am filing this petition because: (**Check ALL that apply**)

☐ The child(ren)'s parent(s) agree that I/we should become the guardian(s) of the child(ren) (**Attach** an Affidavit of Consent executed by the parent(s) who agree).

☐ I am a stepparent of the child(ren) and the legal parent having custody or primary placement for the child(ren) has become disabled. The child(ren) have been living with me immediately before the legal parent having custody or primary placement has become disabled.

☐ The child(ren)'s parent(s) are deceased. (**Attach a certified copy of the death certificate**)

☐ The child(ren) is/are dependant and/or neglected based on the following reason(s): _____

9. I acknowledge the following is true for the child(ren) named in this petition:

☐ Adoption of the child is not possible or appropriate;

☐ Permanent Guardianship is in the best interests of the child

☐ The proposed permanent guardian:

i. Is emotionally, mentally, physically and financially suitable to become the permanent guardian;

ii. Is a blood relative or a foster parent(s)

iii. Has expressly committed to remain the permanent guardian and assume the rights and responsibilities for the child for the duration of the child's minority (until the child is 18 years old); AND

iv. Has demonstrated an understanding of the financial implications of becoming a permanent guardian;

☐ If the child is at least 14 years old, the child consents to the permanent guardianship being granted.

☐ If the proposed permanent guardian is a foster parent(s):

- i. The child is at least 12 years old; OR
- ii. The proposed permanent guardian is the permanent guardian of one of the child's siblings; OR
- iii. The child receives substantial governmental benefits for a serious physical and/or mental disability which would no longer be available to the child if parental rights were terminated and/or if the child was adopted.

☐ I/We have made the following efforts to place the child for adoption (if applicable): _____

10. I have attached the Grounds for Permanent Guardianship for each child named above. I have indicated at least one Ground for Permanent Guardianship for each child named in this petition.

WHEREFORE, Petitioner(s) seek appointment as Permanent Guardian(s) of the above-named minor child(ren).

Petitioner/Petitioner(s)' Attorney

Date: _____

SWORN TO AND SUBSCRIBED before me
this date, _____

Notary Public or Clerk of Court

Petitioner 2, if any

Date: _____

SWORN TO AND SUBSCRIBED before me
this date, _____

Notary Public or Clerk of Court

GROUNDS FOR PERMANENT GUARDIANSHIP

Complete the following for each child named in the Petition for Permanent Guardian

NAME OF CHILD: _____

Indicate the grounds for Permanent Guardianship (**Place an "X" next to the grounds that apply.**)

1. ☐ The parent(s) of the child, or the person(s) or organization holding parental rights over such child agree (consent) that this Petition should be granted. (**Attached is/are the parent(s) affidavit of consent.**)
2. ☐ Respondent has abandoned the child **AND** intended to abandon the child as evidenced by the fact that: (**Place an "X" next to which reason applies**)
 - a. ☐ The child is younger than 6 months old and at the time of filing this Petition, Respondent did not do ANY of the following:
 - Pay reasonable prenatal, natal and postnatal expenses in accordance with Respondent's financial means; AND
 - Visit regularly with the child; AND
 - Manifest (show) an ability and willingness to assume legal and physical custody of the child (this third reason applies if the child was not in the physical custody of the other parent).
 - b. ☐ The child is at least 6 months old at the time of filing this Petition and for at least six consecutive months (six months in a row) during the year immediately before filing the Petition, Respondent(s) did not do ANY of the following:
 - Make reasonable and consistent payments in accordance with Respondent's financial means, for support of the child; AND
 - Communicate or visit regularly with the child; AND
 - Manifest (show) the ability and willingness to assume legal and physical custody of the child (this third reason applies if the child was not in the physical custody of the other parent).
 - c. ☐ The child is younger than 6 months old at the time of filing this Petition and Respondent has placed the child in circumstances leaving the child in substantial risk of injury or death and therefore has manifested (shown) the unwillingness to exercise parental rights
3. ☐ Respondent has abandoned the child BUT did not intend to abandon the child because: (**Place an "X" next to which reason applies**)
 - a. ☐ For 12 consecutive months (12 months in a row) in the 18 months before filing this Petition, Respondent did not do ANY of the following:
 - Communicate or visit regularly with the child; AND
 - File or pursue a pending Petition to establish paternity or to establish the right to have contact or visitation with the child; AND
 - Manifest (show) the ability and willingness to assume legal and physical custody of the child (this third reason applies if the child was not in the physical custody of the other parent).

AND one of the below applies (**Place an "X" next to all that apply**):

- ☐ The child is not in the legal and physical custody of the other parent and Respondent is not able or willing promptly to assume legal and physical custody of the child, and to pay for the child's support, in accordance with Respondent's financial means.

☐ Placing the child in Respondent's legal and physical custody would pose a risk of substantial harm to the physical or psychological well being of the child. Respondent is unfit to maintain a relationship of "parent and child" with the child because of any of the following reasons:

- i. The circumstances of the child's conception; OR
- ii. Respondent's behavior during the mother's pregnancy; OR
- iii. Respondent's behavior after the child was born; OR
- iv. Respondent's behavior with respect to other children.

☐ Failure to grant the Petition for Permanent Guardianship would be detrimental to the child.

4. ☐ The parent(s) of the child or any person(s) holding parental rights over such child are found mentally incompetent and therefore, are unable to discharge parental responsibilities in the foreseeable future. (The Court will select 2 qualified psychiatrists to form an opinion regarding mental incompetence and inability to discharge parental responsibilities. The Court also will appoint a licensed attorney as guardian ad litem to represent the alleged incompetent's interests in the proceeding)
5. ☐ Respondent has been found by a Court of competent jurisdiction to have: **(Place an "X" next to all that apply)**
- a. ☐ Committed a felony level offense as described in subchapter II of Chapter 5 of Title 11 against the person in which the victim was a child;
 - b. ☐ Aided or abetted, attempted, conspired or solicited to commit a felony level offense as described in subchapter II of Chapter 5 of Title 11 against the person in which the victim was a child;
 - c. ☐ Committed or attempted to commit the offense of Dealing in Children as set forth in § 1100 of Title 11.
 - d. ☐ Committed the felony level offense of endangering the welfare of a child as set forth in § 1102 of Title 11.
6. ☐ The parent(s) of the child, or any person(s) holding parental rights over the child, are not able or have failed to plan adequately for the child's physical needs or mental and emotional health and development, and 1 or more of the following conditions has been met: **(Place an "X" next to each condition that has been met)**
- a. ☐ If the child is in the care of the Department or a licensed agency, **place an "X" next to each condition below that has been met:**
 - ☐ The child has been in the care of the Department of licensed agency for a period of one year, or if the child has come into care as an infant, a period of 6 months, or there is a history of previous placement(s) of this child;
 - ☐ There is a history of neglect, abuse, or lack of care of the child or other children by Respondent;
 - ☐ Respondent is incapable of discharging parental responsibilities due to extended or repeated incarceration;
 - ☐ Respondent is not able or willing to assume promptly legal and physical custody of the child, and to pay for the child's support, in accordance with Respondent's financial means.
 - ☐ Failure to grant the Petition for Permanent Guardianship will result in continued emotional instability or physical risk to the child.

- b. ☐ If a blood relative is seeking permanent guardianship **place an "X" next to each condition below that has been met:**

- ☐ The child has resided in the home of the blood relative for a period of at least 1 year, or in the case of an infant, a period of 6 months
- ☐ Respondent is incapable of discharging parental responsibilities, and there appears to be little likelihood that Respondent will be able to discharge such parental responsibilities in the near future.

- 7. ☐ Respondent's parental rights over a sibling (brother, sister, half-brother, half-sister) of the child who is the subject of the Petition have been involuntarily terminated in a prior proceeding.
- 8. ☐ The parent has subjected the child to torture, chronic abuse, sexual abuse, and/or life-threatening abuse.
- 9. ☐ The child has suffered unexplained serious physical injury under such circumstances as would indicate that such injuries resulted from the intentional conduct or willful neglect of the parent.